

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RALPH H. SCHAUB, Ph.D.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-15-1104-M
)	
THE CITY OF OKLAHOMA CITY,)	
ex rel. OKLAHOMA CITY POLICE)	
DEPARTMENT,)	
CLAYLAN CLINE and)	
RODNEY STRECKER,)	
)	
Defendants.)	

ORDER

Before the Court is defendants’ Motion to Dismiss, filed March 4, 2016. On March 25, 2016, plaintiff filed his response, and on March 31, 2016, defendants filed their reply. Upon review of the parties’ submissions, the Court makes its determination.

In his First Amended Complaint, plaintiff alleges that on April 3, 2014, he was arrested for a violation of domestic abuse in regard to Oklahoma City Municipal Ordinance 21-644-C. On April 16, 2014, the charges against plaintiff were dropped by the District Attorney as “declined to file.” On November 13, 2014, upon plaintiff’s request, the record of plaintiff’s April 3, 2014 arrest was expunged. On September 10, 2015, plaintiff filed the instant action asserting claims against defendants for false arrest, police brutality and excessive force.

Defendants now move this Court to dismiss this action. Defendants contend, in part, that since plaintiff’s arrest record was expunged, and, thus, the arrest never happened under the law, plaintiff cannot assert his claims in this action under either state or federal law. Plaintiff asserts that the expungement of his arrest record does not mean the arrest did not take place and, thus, he can maintain his claims against defendants.


Under Oklahoma law, when a record is expunged,

the subject official actions shall be deemed never to have occurred, and the person in interest and all criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to such person.

Okla. Stat. tit. 22, § 19(D) (emphasis added). Thus, as a matter of law, plaintiff's April 3, 2014 arrest never occurred. Since the arrest never occurred, the Court finds that plaintiff cannot assert his false arrest, police brutality and excessive force claims and that this action should be dismissed.

Accordingly, the Court GRANTS defendants' Motion to Dismiss [docket no. 24] and DISMISSES this action.

IT IS SO ORDERED this 30th day of August, 2016.


VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE